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8 **UNITED STATES DISTRICT COURT**  
9 **EASTERN DISTRICT OF CALIFORNIA**  
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11 UNITED STATES OF AMERICA, ) Case No.: 1:22-cr-00110 JLT SKO  
12 )  
13 Plaintiff, ) ORDER DENYING DEFENDANT’S MOTION  
14 ) FOR COMPASSIONATE RELEASE PURSUANT  
15 v. ) TO 18 U.S.C. § 3582(c)(2)  
16 OSCAR ARTURO SALOMON PEREZ, )  
17 ) (Doc. 43)  
18 Defendant. )  
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29 Oscar Arturo Salomon Perez is a federal prisoner moving for compassionate release under 18  
30 U.S.C. § 3582(c)(2) and the recent retroactive amendments to the U.S. Sentencing Guidelines  
31 (“Amendment 821”). (*See generally* Doc. 43.) The Government opposes the motion, contending that  
32 Defendant is ineligible for a sentence reduction because he was assigned 5 criminal history points and  
33 no status points. (Doc. 47.) Defendant did not file a reply. For the reasons set forth below, the motion  
34 is **DENIED**.

35 **I. Analysis**

36 On January 23, 2023, pursuant to a written plea agreement, Defendant pled guilty to  
37 distribution of Fentanyl and P-Fluorofentanyl, in violation of 21 U.S.C. § 841(a)(1). (Docs. 32, 33.)  
38 Following Defendant’s guilty plea, a presentence investigation report was prepared by the probation  
39 officer, which indicated a total offense level of 26 and a criminal history score of 5, based on  
40 Defendant’s prior criminal convictions. (*See* Doc. 35, PSR ¶¶ 34, 40-47.) No status points were

1 assigned. (*See* PSR ¶¶ 47-48.) According to the sentencing table at U.S.S.G. Chapter 5, Part A,  
 2 Defendant's criminal history score placed him in criminal history category III. (PSR ¶ 65.) Based on  
 3 Defendant's offense level and criminal history category, the advisory sentencing guideline range  
 4 called for a term of imprisonment of 78 to 97 months. (PSR ¶ 90.) However, the probation officer  
 5 noted Defendant's eligibility for "safety valve" relief under the First Step Act and advised the Court of  
 6 the option to consider a two-level downward variance. (PSR ¶¶ 112-114.)

7 The Court held a sentencing hearing on May 8, 2023 and imposed a below-guideline sentence  
 8 of 63 months followed by a 24-month term of supervised release. (Doc. 41; Doc. 42 at 2-3.) Defendant  
 9 now asks the Court to reduce his sentence under Part A and Part B, Subpart 1 of Amendment 821 to  
 10 the U.S. Sentencing Guidelines. (*See* Doc. 43.) Part A reduces the number of "status points" assigned  
 11 to certain defendants who committed their offense while under a criminal justice sentence, thereby  
 12 lowering the impact on the defendant's criminal history. *See* U.S.S.G. § 4A1.1. Part B provides a two-  
 13 offense-level reduction for certain "zero-point offenders" who present zero criminal history points and  
 14 satisfy the criteria listed in U.S.S.G. § 4C1.1(a). *See* U.S.S.G. § 4C1.1.

15 As indicated in the PSR, Defendant's prior criminal convictions resulted in a subtotal criminal  
 16 history score of 5. (PSR ¶ 63.) Because § 4C1.1 provides for a sentence reduction only for those with  
 17 no criminal history points, Defendant does not qualify for an offense level reduction under this  
 18 provision. Also, the Court did not assign any "status points" under the former U.S.S.G. § 4A1.1, (*see*  
 19 PSR ¶¶ 63-64), for being under a criminal justice sentence at the time of the offense. Thus, Defendant  
 20 is also not entitled to a status point adjustment. In sum, Amendment 821 does not impact Defendant's  
 21 sentencing guideline range, and therefore, he is not eligible for a sentence reduction under 18 U.S.C. §  
 22 3582(c)(2). The Court does not consider the § 3553(a) sentencing factors. *Dillon*, 560 U.S. at 827.  
 23 Defendant's motion for compassionate release pursuant to 18 U.S.C. § 3582(c)(2), (Doc. 43), is  
 24 **DENIED.**

25  
 26 IT IS SO ORDERED.

27 Dated: September 3, 2024

  
 UNITED STATES DISTRICT JUDGE